

Appl. No. : 10/706,816
Filed : November 12, 2003

REMARKS

Claim 5 has been rewritten in independent form including all of the limitations of claim 1 (base claim) and claim 3 (intervening claim). Claim 6 has been amended solely to clarify the invention. Claims 1 and 3 have been canceled without prejudice. Claims 2 and 4 have been amended to depend from claim 5. As such, no issue of new matter or new issues has been raised. Applicant respectfully requests entry of the amendments and reconsideration of the present application in view of the amendments and the following remarks.

Rejection of Claims 1-7 Under 35 U.S.C. § 103 (a)

Claims 1-7 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Mizuno in view of Moore and Goeden et al. Claims 1 and 3 have been cancelled without prejudice. Claims 5 and 6 have been amended without narrowing the scope.

The Examiner states that a combination of Mizuno, Moore, and Goeden renders the claims obvious. Applicant respectfully traverses this rejection.

First, the Examiner states: "Mizuno and Moore do not disclose non-elastic cords and non-elastic edge cords. Goeden et al. teaches the non-elastic cord (12) and non-elastic edge cords (13) for the purpose of providing durability. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the composed of [*sic*] non-elastic cord and non-elastic edge cords as taught by Goeden et al., with the motor vehicle luggage new [*sic*] to hold luggage in the luggage compartment of the motor vehicle."

However, it is well settled that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

Mizuno explicitly limits the cords to elastic cords. "First and second elastic rubber cords 13 and 14 are attached to the luggage net 12 so as to frame the rectangular net 12" (col. 2, lines 54-56), so that "[w]ith these anchor members 32, 33 and 34, the net member 11 can be set in one of the following six types." (col. 7, lines 9-11) For example, in order to accomplish Type 1 (Fig. 9), the net member 11 is spread using the first hook 19 and the second hook 23, and thus, the cords 13 must be elastic (see the structure shown in Fig. 2). Further, in order to accomplish Type 4 (Fig. 11), the net member 11 is set using the first hook 19 and the second hook 23 at the anchor

Appl. No. : 10/706,816
Filed : November 12, 2003

points A3 and A4. Since the distance between the anchor points A3 and A4 is clearly greater than the distance between the anchor points A1 and A2 (e.g., Type 1), the cord 13a and the cord 14 must be elastic. At least in view of the above, Mizuno does not teach or even suggest the desirability of using non-elastic cords.

Moore also explicitly limits the cords to elastic cords. "In each of the three embodiments shown in FIGS. 2, 4, and 5, the elastic members 34, 34' comprise elastic cord," (col. 2, lines 44-46) "[i]n this embodiment, elastic members 48 are generally used on both sides 24." (col. 3, lines 11-13) in order to provide "a predetermined amount of longitudinal elasticity to the storage area" (col. 1, lines 48-50) and provide "a predetermined amount of transverse elasticity to storage area 18." (col. 3, lines 17-19) At least in view of the above, Moore does not teach or even suggest the desirability of using non-elastic cords.

Furthermore, in the background section of Mizuno, Mizuno specifically states: "In this net structure, however, it is not possible to set the net member in various ways, and to sort pieces of luggage into two or more groups separately stored by the net member. Furthermore, an excessive load, when applied from the net member to the holders, tends to deform the floor panel or break a screw fastener for fastening the bracket to the floor panel." (col. 1, lines 12-18) That is, Mizuno clearly distinguishes Mizuno's invention from a conventional cargo net such as those disclosed in Goeden wherein a cargo net is secured to a vehicle structure.

Similarly, in the background section of Moore, Moore specifically states: "One disadvantage of the examples cited above is that stowage is freely movable within the stowage compartment, and can be damaged in the event of a sudden stop. Further, conventional stowage transporting means generally have only one large compartment, and it is difficult to transport a mixture of heavy items with more delicate or fragile items." (col. 1, lines 17-23) That is, Moore clearly distinguishes Moore's invention from a cargo net such as those disclosed in Goeden wherein a cargo net is secured to a vehicle structure.

Thus, Mizuno and Moore not only do not teach or suggest the desirability of using non-elastic cords but also teach away from using non-elastic cords.

It is also well settled that if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123

Appl. No. : 10/706,816
Filed : November 12, 2003

USPQ 349 (CCPA 1959) If the elastic cords of Mizuno and Moore are replaced with non-elastic cords, the replacement changes the principle of operation of Mizuno's and Moore's inventions being modified, because the replacement prohibits the six types of application in Mizuno and longitudinal and transverse elasticity in Moore.

At least in view of the foregoing, claim 5 cannot be *prima facie* obvious over Mizuno, Moore, and Goeden.

Further, the Examiner correctly states: "Moore does not disclose the edge cord length adjust device [(70)] is capable of adjusting the length between the upper and lower ends of the respective edge cords." However, the Examiner concludes that the above features would have been obvious since "it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70."

However, in *In re Japikse*, claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device. In contrast, the edge cord length adjust device performs significantly different operation from the operation of the device 70 of Moore. Moore states: "center loops 70 are optionally provided to prevent sagging of the net 10', and are especially useful when extending along the side of a passenger compartment, truck bed, etc." (col. 3, lines 53-56) Moore simply teaches "center loops 70" and describes nothing about adjusting the length between the upper and lower ends. The center loops 70 are useful when the center loops 70 extend along the side of a passenger compartment, truck bed, etc. That is, the center loops 70 are hooked up to somewhere along the side of a passenger compartment, truck bed, etc, so that it can prevent sagging of the net. The center loops 70 appear to be not different from the loops 56 in all respects. Moore does not implicitly or explicitly teach a length adjusting mechanism or structure. The instant specification states: "the user uses edge cord length adjustment means 4 to adjust the length of luggage net 1 according to the size of the luggage, whereby end cords 5 can be extended and placed in the appropriate state of tension" (the last paragraph on page 14) with reference to Fig. 6. The operation of the length adjust device in the claim is dissimilar to that of the center loops 70 of

Appl. No. : 10/706,816
Filed : November 12, 2003

Moore (also the cords in Moore are elastic). Thus, *In re Japikse* is clearly distinguishable from the present case.

At least in view of the above, Moore cannot render claim 5 obvious.

Further, the Examiner states: "Regarding claim 5, Mizuno further discloses the plurality of the connector[s] (26) (See Figure 2) of the middle cord (25) are provided along the longitudinal direction (See Figure 2) of the middle cord (25) at each end of the middle cord (25). See Figure 2."

However, claim 5 recites: "the two ends of said middle cord being provided with connectors that can connect to connectors of said motor vehicle, wherein a plurality of said connectors of said middle cord are provided along the longitudinal direction of said middle cord at each end of said middle cord." That is, a plurality of the connectors which can connect to connectors of the motor vehicle are provided along the longitudinal direction of said middle cord at each end of said middle cord.

In contrast, Fig. 2 of Mizuno shows a single connector (26) at each end of the middle cord (25). Thus, not all of the limitations of claim 5 are not taught or suggested by Mizuno, and thus, claim 5 cannot be *prima facie* obvious over Mizuno. Further, in Mizuno, the middle cord is elastic, and there is no reason to provide a plurality of the connectors at each end. The instant specification states: "These connection means are preferably constructed as variable connection means that allow connection to different positions inside the motor vehicle and, in particular, to positions of varying distance from the portion of middle cord 7 that is attached to edge cord 3, such that the degree of the tension of middle cord 7 does not vary greatly when luggage net 1 is installed." (The paragraph bridging pages 12 and 13) In that embodiment, "the degree of tension of middle cord 7 can be made substantially uniform and set to an appropriate degree of tension even when connecting to different positions inside the motor vehicle, thus allowing adjustment of the degree of tension of luggage net 1 as necessary." This feature is not taught or suggested by Mizuno, and thus, claim 5 cannot be obvious over Mizuno.

In view of the foregoing, the *prima facie* case of obviousness cannot be justified with regard to claim 5. Applicant respectfully requests withdrawal of this rejection.

Appl. No. : 10/706,816
Filed : November 12, 2003

Claims 2 and 4 have been amended to depend from claim 5. Thus, at least for this reason, claims 2 and 4 also cannot be *prima facie* obvious over the prior art.

With regard to claim 6, the Examiner states that Mizuno discloses the first attached state, the second attached state, and the third attached state. Applicant respectfully traverses.

Mizuno discloses no embodiment similar to the third attached state described in the claimed invention. The third attached state in claim 6 is a state in which "said motor vehicle luggage net is folded in half along the position of said middle cord and attached upright with a forward inclination with said end cords connected to connectors in the side walls of said motor vehicle and said connectors at the two ends of said middle cord connected to connectors that are provided at positions in the vicinity of the floor of said motor vehicle that are toward the rear of said motor vehicle from positions that are perpendicularly below the connectors to which said end cords are connected." An embodiment of this state is shown in Fig. 8. The instant specification states:

In this attached state, instead of directly securing luggage by means of luggage net 1, luggage having poor stability that is placed forward of luggage net 1 can be gently restrained from moving toward the rear of the motor vehicle. This arrangement can prevent shocks to the luggage and the inner walls of the motor vehicle even when movement of luggage occurs. Here, luggage net 1 is attached with an inclination toward floor 21, and as a result, when luggage strikes against luggage net 1, the sudden concentrated application of pressure against luggage net 1 can be suppressed and the luggage that strikes against luggage net 1 is forced downward by luggage net 1, whereby the luggage can be restrained from flying up and can be gently but effectively slowed down. (Page 16, lines 4-15)

This is a highly reinforced state achieved by inclining both sides of the net forward, and it is not designed to place stuff between the nets. In claim 6, the net can be used interchangeably not only in the first attached state (a spread state as in Fig. 6) and the second attached state (a folded state as in Fig. 7) but also in the third attached state (the reinforced state as explained above and in Fig. 8). In contrast, Mizuno describes the following six types:

Types 1-3: The net 11 is spread over the floor (Figs. 9, 10).

Type 4: The net 11 is folded as in Fig. 14B (Figs. 11 and 13), which is similar to the second attached state of the claimed invention.

Appl. No. : 10/706,816
Filed : November 12, 2003

Type 5: The net 11 is spread vertically and arranged as a partition (Fig. 12).

Type 6: The net 11 is set in a L-shaped state as in Fig 14A (Figs. 12, 14A).

Types 1-3, 6 are clearly different from the third attached state of claim 6 as explained above. Type 4 in Mizuno (Fig. 14B) is also different from the third attached state of claim 6. Fig 14B shows that the net 11 itself is configured to be vertically folded and the net is placed against the upright panel 63. There is no need to reinforce the strength of the net, and further, this type is for storing stuff inside. Type 5 in Mizuno is also different from the third attached state of claim 6. In Type 5, the net is spread vertically as a partition.

This third attached state is not taught or suggested by Mizuno. The third attached state requires strong and durable material as described in the claimed invention to securely restrain movement of heavy luggage etc. Claim 6 can achieve the third attached state effectively utilizing the features of non-elastic material and edge cord length adjustment devices.

Thus, not all of the limitations of claim 6 are taught or suggested by Mizuno, and thus, claim 6 cannot be *prima facie* obvious over Mizuno. The discussions with regard to claim 5 above can apply here to traverse this rejection. Applicant respectfully requests withdrawal of this rejection.

As to claim 7, the discussions regarding the plurality of connectors in claim 5 can apply here to traverse the rejection of claim 7. Further, claim 7 depends from claim 6. Thus, at least for the above reasons, claim 7 also cannot be *prima facie* obvious over the prior art. Applicant respectfully requests withdrawal of this rejection.

Appl. No. : 10/706,816
Filed : November 12, 2003

CONCLUSION

In light of the Applicant's amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

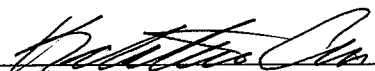
Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: October 23, 2006

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